

HOUSE BILL 420

M4

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By: **Chair, Environmental Matters Committee (By Request – Departmental – Agriculture)**

Introduced and read first time: January 29, 2010

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2010

CHAPTER _____

1 AN ACT concerning

2 **Secretary of Agriculture – Mosquito Control – Enforcement Authority**

3 FOR the purpose of authorizing the Secretary of Agriculture to issue and serve a
4 mosquito abatement order on certain persons under certain circumstances;
5 ~~authorizing the Secretary to enter on and inspect private property for certain~~
6 ~~purposes~~; authorizing the Secretary to bring action for injunctive relief under
7 certain circumstances; establishing a certain penalty for any person who
8 violates a mosquito abatement order issued by the Secretary; and generally
9 relating to mosquito abatement by the Department of Agriculture.

10 BY adding to

11 Article – Agriculture

12 Section ~~5-406~~ through ~~5-409~~ 5-408

13 Annotated Code of Maryland

14 (2007 Replacement Volume and 2009 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Agriculture**

18 **5-406.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (A) IF THE SECRETARY, ~~AFTER CONSULTING~~ IN COOPERATION WITH
2 THE LOCAL HEALTH AUTHORITY, FINDS THAT A PERSON IS CAUSING OR
3 ALLOWING MOSQUITOES TO BREED OR DEVELOP ON ANY PROPERTY IN A
4 MANNER THAT MAY POSE A THREAT TO PUBLIC HEALTH, THE SECRETARY MAY
5 ORDER THAT THE PERSON ABATE THE MOSQUITO HABITAT IN A MANNER AND AT
6 A TIME SPECIFIED IN THE ORDER.

7 (B) AFTER ALL REASONABLE ATTEMPTS OF ABATEMENT HAVE FAILED,
8 AN ORDER ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION
9 SHALL BE SERVED:

10 (1) ON THE PERSON WHO IS CAUSING OR ALLOWING MOSQUITOES
11 TO BREED OR DEVELOP; OR

12 (2) IF THE PERSON WHO IS CAUSING OR ALLOWING THE
13 MOSQUITOES TO BREED OR DEVELOP CANNOT BE FOUND, ON THE OWNER OR
14 OCCUPANT OF THE PROPERTY WHERE THE MOSQUITOES EXIST.

15 ~~5-407.~~

16 ~~AFTER MAKING A REASONABLE ATTEMPT TO LOCATE THE OWNER OR~~
17 ~~TENANT ON THE PREMISES FOR PERMISSION TO ENTER AND GIVING THE OWNER~~
18 ~~OR TENANT A REASONABLE AMOUNT OF TIME TO RESPOND, THE SECRETARY~~
19 ~~MAY ENTER ON AND INSPECT, AT ANY REASONABLE HOUR, ANY PRIVATE~~
20 ~~PROPERTY, EXCLUDING A DWELLING, TO DETERMINE WHETHER MOSQUITOES~~
21 ~~ARE BREEDING OR DEVELOPING.~~

22 ~~5-408.~~ 5-407.

23 (A) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION
24 AGAINST ANY PERSON VIOLATING ANY ORDER ISSUED BY THE SECRETARY
25 UNDER § 5-406 OF THIS SUBTITLE.

26 (B) IN ANY ACTION FOR AN INJUNCTION BROUGHT UNDER THIS
27 SECTION, ANY FINDING OF THE SECRETARY AFTER A HEARING SHALL BE PRIMA
28 FACIE EVIDENCE OF EACH FACT FOUND.

29 (C) ON A SHOWING BY THE SECRETARY THAT ANY PERSON IS
30 VIOLATING OR IS ABOUT TO VIOLATE ANY ORDER ISSUED BY THE SECRETARY,
31 AN INJUNCTION SHALL BE GRANTED WITHOUT THE NECESSITY OF SHOWING A
32 LACK OF ADEQUATE REMEDY AT LAW.

33 (D) AN INJUNCTION INSTITUTED UNDER THIS SECTION SHALL BE
34 ISSUED WITHOUT BOND.

1 ~~5-409.~~ 5-408.

2 A PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF AN
3 ORDER SERVED UNDER § 5-406 OF THIS SUBTITLE IS GUILTY OF A
4 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
5 \$5,000.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not
7 increase the duties or responsibilities of local health authorities to engage in mosquito
8 control activity.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.